

CHAPTER 89-03-02

MODIFICATION OF A WATER PERMIT

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89-03-02-01. Submission of application for a change in point of diversion and change in purpose of use. Application for a change in point of diversion and for a change in purpose of use must be submitted to the state engineer on the form provided by the state engineer. Application forms are available at the office of the state engineer in Bismarck. A fee schedule and instructions for completion of the forms are provided with the form. Information not provided for in the applications may be required by the state engineer. A change in purpose of use may only be granted for a use that has a higher priority than the use from which a change is sought.

History: Amended effective April 1, 1989.

General Authority: NDCC 28-32-02, 61-03-13

Law Implemented: NDCC 61-04-04, 61-04-06.1, 61-04-15.1

89-03-02-02. Return of unsatisfactory application. If the change in purpose of use or change in point of diversion application is not submitted on the proper form or if the form is improperly completed, it shall be returned within thirty days, along with a statement of the required corrections.

History: Amended effective April 1, 1989.

General Authority: NDCC 28-32-02, 61-03-13

Law Implemented: NDCC 61-04-04, 61-04-15.1

89-03-02-03. Amendment of application. An applicant for a change in purpose of use or a change in point of diversion, prior to being instructed to give notice as provided in section 89-03-01-04, may amend an application. An amendment request may be made by letter or by submission of an amended application.

If, prior to the request to amend, any notices of an application for a change in the purpose of use or a change in the point of diversion have been mailed, the applicant shall mail corrected notices of the application to all persons who were sent the original notice and shall submit an affidavit of service of corrected notice to the state engineer. If the notice of application has been published, the state engineer shall publish a corrected notice. The state engineer may determine that corrected notices need not be mailed or published if the state engineer determines the amendment is insubstantial. Costs of publication must be paid by the applicant.

History: Amended effective April 1, 1989; April 1, 2000.

General Authority: NDCC 28-32-02, 61-03-13

Law Implemented: NDCC 61-04-04, 61-04-15.1

89-03-02-04. Fee. Repealed effective April 1, 1989.

89-03-02-05. Notice of application. Notification of an application for change in purpose of use or change in point of diversion shall be handled in the manner outlined in subsections 1 through 3 of section 89-03-01-04.

History: Amended effective April 1, 1989; August 1, 1994.

General Authority: NDCC 28-32-02, 61-03-13

Law Implemented: NDCC 61-04-05, 61-04-15.1

89-03-02-06. Publication of notice of an application for a change in the purpose of use or point of diversion. Notice of an application or an amendment to an application for a change in the purpose of use or a change in the point of diversion must be published in the same manner as provided for in chapter 89-03-01 for water permit applications or amendments to water permit applications.

History: Amended effective April 1, 1989; April 1, 2000.

General Authority: NDCC 28-32-02, 61-03-13

Law Implemented: NDCC 61-04-05, 61-04-15.1

89-03-02-07. Filing proof of publication and mailing. Repealed effective April 1, 1989.

89-03-02-08. Assignment of a water permit to another person. Applications for the assignment of a water permit to another person must be submitted to the state engineer in writing. When title of land on which there is a water permit for irrigation is transferred, either the transferee or the holder of the permit may apply for assignment of the water right. The application must describe the transferee's interest in the water permit. The state engineer may request additional documentation of the transferee's interest.

History: Effective April 1, 1989; amended effective February 1, 1997; April 1, 2000.

General Authority: NDCC 28-32-02, 61-03-13

Law Implemented: NDCC 61-04-15

89-03-02-09. Transfer of a water permit to another parcel. Applications for the transfer of a water permit to another parcel of land owned or leased by the permittee must be submitted to the state engineer on the form provided by the state engineer.

History: Effective April 1, 1989.

General Authority: NDCC 28-32-02, 61-03-13

Law Implemented: NDCC 61-04-15

89-03-02-10. Change in location of use. No change in location of use of a conditional or perfected water permit will be granted if other appropriators rely upon the return flows from the permittee's beneficial use of water. "Return flow" is residual water that is returned to its source or some other source after beneficial use by a permittee.

History: Effective April 1, 1989.

General Authority: NDCC 28-32-02, 61-03-13

Law Implemented: NDCC 61-01-01(3), 61-04-15

89-03-02-11. Increase in pumping rate. Requests to increase a permittee's pumping rate must be made in writing to the state engineer. The state engineer, prior to making a decision on the request, will consider what effect the increase has on other appropriators from the water source.

History: Effective April 1, 1989.

General Authority: NDCC 28-32-02, 61-03-13

Law Implemented: NDCC 61-04-06.2

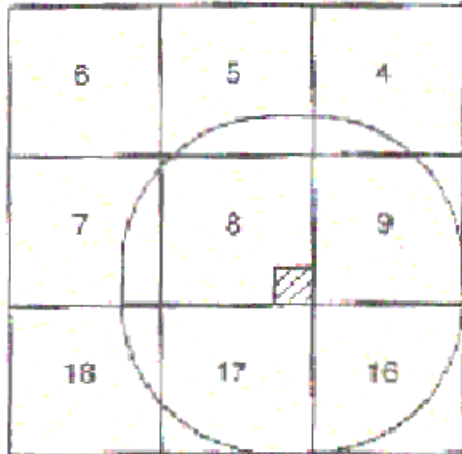
89-03-02-12. Water permit for irrigation - Limitation. The state engineer may, to allow for more efficient operation of an irrigation system, increase the number of acres that may be irrigated on the tracts of land specified in the water permit. A request for an increase in the number of acres must be evaluated in accordance with subsections 1 through 3 of North Dakota Century Code section 61-04-06.

History: Effective April 1, 1989; amended effective August 1, 1994.

General Authority: NDCC 28-32-02, 61-03-13

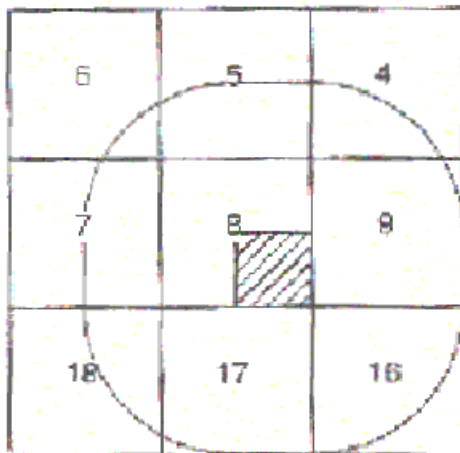
Law Implemented: NDCC 61-04-06.2

APPENDIX A
ARTICLE 89-C3



Proposed point of diversion:

SE 1/4 SE 1/4 of Section 8, Township 160 North, Range 83 West. All landowners within a one-mile [1.6 kilometer] radius of the exterior boundaries of the 40-acre [16 hectare] tract shall be notified.



Proposed point of diversion:

SE 1/4 of Section 8, Township 160 North, Range 83 West. All landowners within a one-mile [1.6 kilometer] radius of the exterior boundaries of the 160-acre [65 hectare] tract shall be notified.